

## **REMARKS**

In the Office action mailed November 29, 2007, the disclosure was objected to due to informalities in paragraph [0061].

Claim 1 was objected to.

Claims 1-12 were rejected under 35 USC §112, second paragraph, for allegedly being indefinite.

Claims 10 and 11 were rejected under 35 USC §101.

Claims 1-12 were rejected under 35 USC §102(b) for allegedly being anticipated by US Patent 5,182,103 to Nakane et al.

Clarifying amendments and explanations are presented herein which are believed to remedy all of the objections and rejections. Specifically, amendments are presented to the specification and to claims 1, 3, 8 and 10-12, which are respectfully submitted to remedy all of the Examiner's concerns. Claim 2 has been cancelled. Claims 1 and 3-12 remain for the Examiner's consideration.

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

### **A. Objection to Specification Has Been Remedied and Should Now be Withdrawn**

Paragraph [0061] was objected to. That paragraph has been rewritten to address the Examiner's concerns. Several grammatical and typographical errors

were corrected. And, the noted justification issue has been remedied. It is submitted that this objection should now be withdrawn.

**B. Objection to Claim 1 Has Been Remedied and Should Now be Withdrawn**

Claim 1 was objected to due to use of particular terminology in that claim. In view of the clarifying amendments to claim 1 presented herein, it is submitted that the objection has been remedied and should now be withdrawn.

**C. Rejection of Claims 1-12 Under §112 Has Been Remedied and Should Now be Withdrawn**

Claims 1-12 were rejected under 35 USC §112, second paragraph, for allegedly being indefinite. Specifically, the Examiner suggested that the term "that" in claim 1 be replaced with the term "where" regarding the surface of lipophilic powder being covered with zinc oxide. Applicant has amended claim 1 accordingly. Support for this amendment is found throughout the present application as originally filed, and particularly at paragraphs [0044]-[0048] for example.

Claim 1 was also amended to more clearly recite a feature concerning the zeta-potential of the lipophilic base powder. Claim 1 now recites that "the zeta-potential of said lipophilic base powder is a negative value at pH 7.5." Support for this amendment is found throughout the present application as originally filed, and particularly at paragraphs [0027]-[0034] and Table 2, for example.

Claim 1 as amended herein now recites an aspect of covering rate, which

previously pending claim 2 recited. Since the Examiner expressed concern over that term as used in claim 2, claim 1 was also amended to address the Examiner's concern over that term in former claim 2. Specifically, the term "covering rate" now present in claim 1 refers to the extent (expressed as a percentage) of the *total surface area* of the lipophilic base powder that is covered by zinc oxide. This is shown in Fig. 1 and described in paragraphs [0009], [0044]-[0048], [0053], [0073]-[0075], [0096], and Tables 3, 7, 8, and 9 for example. As for how to measure the covering rate, the present specification describes that the covering rate can be measured by electron microscope images. "A covering rate of zinc oxide relative to total surface area of silicone rubber powder at swelling is observed by electron microscope." See paragraph [0074]. It is respectfully submitted that the term "covering rate" is in fact definite.

The Examiner also expressed concern over terminology "swelled in the condition of dispersing in oil" in claim 2 [sic, claim 3]. Claim 3 has been amended to now recite that the "lipophilic base powder is swelled in said oil component." This feature is described beginning at paragraph [0049]. Claim 3 as now amended is definite, particularly in view of independent claim 1 from which claim 3 depends. Claim 1 recites a particular covering rate of zinc oxide based upon the "total surface area of said lipophilic base powder dispersed in said oil component." Further, "total surface area" of the lipophilic base powder represents the surface in oil as shown in Fig. 1. The total surface area of swellable lipophilic base powder may change in the course of swelling in oil. However, it is possible to specify it in such case, as it is described in the specification that a covering rate of zinc oxide relative to a total surface area of a lipophilic base powder is in the range of 1 to 90% *in the swollen*

*state at dispersion in an oil.* See paragraph [0047]. The term "swelled in the condition of dispersing in oil" means that the lipophilic powder show the change of states as illustrated in Fig. 1B. In addition, in the specification, it is described that a hardness of swelling lipophilic base powder is preferably in the range of 1 to 80, and further preferably in the range of 1 to 50. See paragraph [0050]. Moreover, as previously explained, whether the powder is in a swollen state can be confirmed by electron microscopy. Support for the noted amendment is found throughout the present application as filed, and particularly at the noted passages.

In view of the amendments to the claims and the clarifying explanations, it is submitted that the rejection of claims 1-12 under §112, second paragraph should now be withdrawn.

#### **D. Rejection of Claims 10 and 11 Under 35 USC §101 Has Been Remedied and Should Now be Withdrawn**

Claims 10 and 11 were rejected under 35 USC §101. Each of these claims has been amended to recite methods of use of the composition of claim 1 involving specific operations. Support for these amendments are found throughout the present application as originally filed, and particularly at paragraphs [0067]-[0071], [0079]-[0086], and [0089]-[0096].

In view of the amendments, it is submitted that the present rejection has been remedied and should now be withdrawn.

#### **E. Rejection of Claims 1-12 Under 35 USC §102(b) Based Upon US Patent 5,182,103 to Nakane et al. Should be Withdrawn**

Claims 1-12 were rejected under 35 USC §102(b) for allegedly being anticipated by US Patent 5,182,103 to Nakane et al. The '103 patent to Nakane et al. is directed to a composite powder coated with magnesium aluminometasilicate. The composite powder is substantially covered with the magnesium aluminometasilicate or combinations of magnesium aluminometasilicate and one or more other powders which may include "zinc white". In fact, Nakane et al. state in the '103 patent that the surface of the coated powder is "substantially completely covered with a magnesiummetasilicate coating powder." Nakane et al. describe that such coated composite powders exhibit improved surface characteristics, especially adsorbability of the resulting powder. See col. 1, lines 15-20.

In contrast, all pending claims as now amended, recite that the lipophilic base powder is covered to only a partial extent, i.e. from 1 to 90%, by the zinc oxide. Thus, in the claimed compositions, a significant portion, i.e. 99 to 10%, of the surface area of the base powder is *not covered* by the zinc oxide, and thus remains exposed. Nakane et al. entirely fail to disclose this claimed feature. For at least this reason, it is submitted that claims 1-12 are not anticipated by the '103 patent to Nakane et al. and that the present rejection must now be withdrawn.

## **F. Conclusion**

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite

prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. IWI-16057.

Respectfully submitted,

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